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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,194	01/28/2004	Joseph Michael Lindacher	CL/V-32843A	3686
31781	7590	03/24/2005	EXAMINER	
CIBA VISION CORPORATION PATENT DEPARTMENT 11460 JOHNS CREEK PARKWAY DULUTH, GA 30097-1556			COLLINS, DARRYL J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

OK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/766,194	LINDACHER, JOSEPH MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Darryl J. Collins	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 18 is/are rejected.
- 7) ☐ Claim(s) 2-5, 7-17 and 19-31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01282004, 04222004</u> .  | 6) <input checked="" type="checkbox"/> Other: <u>IDS Paper # 08232004</u> . |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The “lined through” reference appearing on the Information Disclosure Statement does not exist. The examiner has corrected and considered the reference. The corrected reference appears on the PTO-892 enclosed herewith.

### ***Specification***

The disclosure is objected to because of the following informalities: Element 18 is depicted in Figure 1, but element 18 fails to be discussed in the Specification.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Miller teaches a contact lens and a method for making the contact lens having an anterior surface and opposite posterior surface (Figure 5) comprising a central optical zone (Figure 6) having a first optical zone (Figure 6, element 21) for distant vision correction (column 4, lines 54-56), a second optical zone (Figure 6, element 15) for near vision correction wherein the first optical

zone is located in an upper portion of the central zone and the second optical zone is located in a lower portion of the central zone (Figure 6) and further having a transitional zone between the first and second optical zones (Figure 6, element 17 and column 4, lines 60- 67) as claimed in independent claims 1 and 18. Miller also teaches the first, second and transitional zones as being symmetric about a vertical meridian (column 5, lines 2-5) as claimed in dependent claim 6.

*Allowable Subject Matter*

Claims 2-5, 7-17 and 19-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. Although the prior art teaches an ophthalmic lens and a method for making the contact lens as outlined in the rejection above, the prior art fails to teach such a lens or method of making such a lens wherein the distance between the vertex center of a second optical zone, located at the intersection of a vertical meridian and the center of the central zone, and the apex of a first optical zone, coincident with the center of the central optical zone, is 1.5 mm or less as claimed independent claims 2 and 19.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darryl J. Collins whose telephone number is 571-272-2325. The examiner can normally be reached on 6:30 - 5:00 Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



djc



Georgia Epps  
Supervisory Patent Examiner  
Technology Center 2800